

Court of Appeals, State of Michigan

ORDER

People of MI v Thomas David Richardson

Docket No. 280941

LC No. 07-001782 FC

Bill Schuette
Presiding Judge

William C. Whitbeck, C.J.

Peter D. O'Connell
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The Court orders that the motion to strike is DENIED.

The Court orders pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the portion of the circuit court's September 4, 2004 order excluding defendant's exhibits from evidence is VACATED. The matter is REMANDED to the circuit court to determine if plaintiff is prejudiced by the violation of the relevant portion of the discovery order. *People v Davie (After Remand)*, 225 Mich App 592, 598; 571 NW2d 229 (1997). Before excluding the evidence, the court is also required to determine if a lesser sanction than exclusion will promote the interests of justice. *People v Greenfield (On Reconsideration)*, 271 Mich App 442, 455 n 10; 722 NW2d 254 (2006). We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 15 2007

Date

Sandra Schultz Mengel
Chief Clerk